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8	BEFORE THE		
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10	STATE OF C		
11	In the Matter of the Accusation Against:	Case No. 2010 - 199	
12	TERESA BETH SPENCER	ACCUSATION	
13	14265 Main Street French Gulch, California 96033		
14	Registered Nurse License No. 688114		
15	Respondent.		
16			
17			
18	Complainant alleges:		
19	PARTIES		
20	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her		
21	official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),		
22	Department of Consumer Affairs.		
23	Registered Nurse License Information		
24	2. On or about September 5, 2006, the Board issued Registered Nurse License Number		
25	688114 to Teresa Beth Spencer ("Respondent"). The registered nurse license was in full force		
26	and effect at all times relevant to the charges brought herein and will expire on June 30, 2010,		
27	unless renewed.		
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3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

STATUTORY PROVISIONS

- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
  - 5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
- 6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- (c) Be convicted of a criminal offense involving the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

#### COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

# FIRST CAUSE FOR DISCIPLINE

# (Criminal Convictions)

- 8. Respondent is subject to discipline pursuant to Code section 2761, subdivision (f), in that Respondent has been convicted of the following crimes that are substantially related to the qualifications, functions or duties of a licensed registered nurse:
- a. On November 24, 2008, in the Superior Court, County of Shasta, California in the matter entitled *People v. Teresa Spencer*, Case No. 08-05023, Respondent was convicted by the court following her plea of nolo contendere to a violation of Business and Professions Code section 25658, subdivision (b) (selling liquor to a minor), a misdemeanor. The circumstances of the crime are that on May 29, 2008, while employed as a waitress at a restaurant in French Gulch, California, Respondent willfully and unlawfully furnished, gave, and caused to be sold, furnished or given away to a person under the age of 21 years, an alcoholic beverage.
- b. On December 26, 2008, in the Superior Court, County of San Joaquin, California, in the matter entitled *People v. Teresa Spencer*, Case No. HP31759JQ, Respondent was convicted by the court following her plea of guilty to a violation of Vehicle Code section 23152, subdivision (b) (driving a vehicle with a blood alcohol level of .08% or more), a misdemeanor. The circumstances of the crime are that on November 27, 2008, Respondent was arrested following a traffic accident in which Respondent rear-ended another vehicle. Officers on the scene determined Respondent was intoxicated and she was subsequently arrested. Respondent was transported to the San Joaquin County Jail where a breath test was administered to Respondent resulting in .09% blood alcohol concentration and a .10% blood alcohol concentration.

## SECOND CAUSE FOR DISCIPLINE

## (Conviction Involving Alcohol)

9. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in Code section 2762, subdivision (c), in that

1	Respondent has been convicted of a crime involving the consumption of alcohol, as more	
2	particularly set forth in paragraph 8, subdivision b, above.	
3	THIRD CAUSE FOR DISCIPLINE	
4	(Use Alcohol to an Extent or in a Manner Dangerous or Injurious)	
5	10. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a), on	
6	the grounds of unprofessional conduct as defined in Code section 2762, subdivision (b), in that or	
7	November 25, 2008, Respondent used alcohol to an extent or in a manner dangerous or injurious	
8	to herself or others, as more particularly set forth in paragraph 8, subparagraph b, above.	
9	PRAYER	
10	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
11	and that following the hearing, the Board of Registered Nursing issue a decision:	
12	1. Revoking or suspending Registered Nurse License Number 688114, issued to	
13	Teresa Beth Spencer;	
14	2. Ordering Teresa Beth Spencer to pay the Board of Registered Nursing the reasonable	
15	costs of the investigation and enforcement of this case, pursuant to Business and Professions	
16	Code section 125.3; and,	
17	3. Taking such other and further action as deemed necessary and proper.	
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19		
20	DATED: 10/8/09 Starie Benne	
21	Louise R. Bailey, M.ED., RN	
22	Board of Registered Nursing	
23	Department of Consumer Affairs State of California	
24	Complainant	
25		
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